



Billing Code 3410-DM-P

DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

9 CFR Part 309

[Docket No. FSIS-2014-0020]

RIN: 0583-AD54

Requirements for the Disposition of Non-ambulatory Disabled Veal Calves

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: The Food Safety and Inspection Service (FSIS) is proposing to amend its regulations on ante-mortem inspection to remove a provision that permits establishments to set apart and hold for treatment veal calves that are unable to rise from a recumbent position and walk because they are tired or cold. Under the proposed rule, non-ambulatory disabled veal calves that are offered for slaughter will be condemned and promptly euthanized. Prohibiting the slaughter of all non-ambulatory disabled veal calves will improve compliance with the Humane Methods of Slaughter Act of 1978 (HMSA) and the humane slaughter implementing regulations. It will also improve the Agency's inspection efficiency by eliminating the time that FSIS

inspection program personnel (IPP) spend re-inspecting non-ambulatory disabled veal calves. FSIS is also proposing to clarify in the regulations that all non-ambulatory disabled cattle must be promptly disposed of after they have been condemned.

DATES: Comments must be received on or before [INSERT DATE 60 DAYS FROM DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: FSIS invites interested persons to submit comments on this rule. Comments may be submitted by one of the following methods:

- Federal eRulemaking Portal: This Web site provides the ability to type short comments directly into the comment field on this Web page or attach a file for lengthier comments. Go to <http://www.regulations.gov>. Follow the on-line instructions at that site for submitting comments.

- Mail, including CD-ROMs, etc.: Send to Docket Clerk, U.S. Department of Agriculture, Food Safety and Inspection Service, Patriots Plaza 3, 1400 Independence Avenue SW, Mailstop 3782, Room 8-163A, Washington, DC 20250-3700.

- Hand- or courier-delivered submittals: Deliver to Patriots Plaza 3, 355 E. Street SW, Room 8-163A, Washington, DC 20250-3700.

Instructions: All items submitted by mail or electronic mail must include the Agency name and docket number FSIS-2014-0020.

Comments received in response to this docket will be made available for public inspection and posted without change, including any personal information, to

<http://www.regulations.gov>.

FOR FURTHER INFORMATION CONTACT: Dr. Daniel Engeljohn, Assistant Administrator, Office of Policy and Program Development;

Telephone: (202) 205-0495.

SUPPLEMENTARY INFORMATION:

#### Background

##### Regulatory Requirements for Non-ambulatory Disabled Veal

Under 9 CFR 309.3(e), non-ambulatory disabled cattle that are offered for slaughter, including those that have become non-ambulatory disabled after passing ante-mortem inspection, must be condemned and disposed of properly. However, under 9 CFR 309.13(b), non-ambulatory disabled veal calves that are able to rise from a recumbent position and walk after they have been set aside and warmed or rested, and that are found to be otherwise free from disease, may be slaughtered for human food under appropriate FSIS supervision.

In 2009, FSIS amended 9 CFR 309.3(e) to remove the case-by-case disposition determination of cattle that became non-ambulatory disabled after ante-mortem inspection to ensure that animals that may be unfit for human food do not proceed to slaughter and to improve the effectiveness and efficiency of the

inspection system (74 FR 11463). FSIS decided that establishments could continue to set aside veal calves that were tired or cold because these conditions could be treated before presenting the animals for slaughter.

Petition from the Humane Society of the United States

In November 2009, the Humane Society of the United States (HSUS) submitted a petition requesting that FSIS amend its regulations to remove the provision that allows veal calves that are non-ambulatory disabled because they are tired or cold to be set aside to be warmed or rested (9 CFR 309.13(b)). The petition requested that FSIS amend its regulations to require that all non-ambulatory disabled veal calves offered for slaughter be condemned and promptly euthanized. The petition is available on the FSIS Web site at

[http://www.fsis.usda.gov/wps/wcm/connect/9ddd8b7c-983f-4cb1-83e8-9e545e9345d0/Petition\\_HSUS\\_Humane\\_Handling.pdf?MOD=AJPERES](http://www.fsis.usda.gov/wps/wcm/connect/9ddd8b7c-983f-4cb1-83e8-9e545e9345d0/Petition_HSUS_Humane_Handling.pdf?MOD=AJPERES).

To support the requested action, the petition referred to video footage from an HSUS undercover investigation at an official veal slaughter establishment in August 2009. The video footage documents incidents in which the establishment owner and his employees repeatedly used electric prods and physical force to attempt to get non-ambulatory disabled veal calves to rise.

After the release of the video footage, FSIS conducted its own investigation which found that the establishment repeatedly

failed to handle animals humanely. FSIS immediately shut down the establishment, and Secretary of Agriculture Thomas Vilsack ordered the USDA's Office of Inspector General to conduct a criminal investigation. The establishment was only allowed to reopen under a new name and different ownership after reaching an agreement with FSIS that its facilities would be audited by an outside firm on a regular basis, and that employees would receive special training on humane handling of animals.

HSUS's petition asserted that the provision in 9 CFR 309.13(b) is inconsistent with the language and intent of the HMSA because it fails to ensure that the handling of livestock in connection with slaughter be carried out only by humane methods (see 7 U.S.C. 1902). Similarly, the petition asserted that failing to require immediate euthanasia creates a financial incentive for establishments to engage in abusive conduct because a non-ambulatory disabled calf is worthless unless it is slaughtered. The petition asserted that removing the provision from 9 CFR 309.13(b) would eliminate uncertainty as to what is to be done with veal calves that are non-ambulatory disabled because they are tired or cold, or because they are injured or sick, thereby ensuring the appropriate disposition of these animals. The petition also maintained that removing the provision in 9 CFR 309.13(b) would improve inspection efficiency

by eliminating the time that FSIS IPP spend assessing the treatment of non-ambulatory disabled veal calves.

On February 7, 2011, FSIS published a document in the Federal Register requesting public comments on the HSUS petition (76 FR 6572). In the document, the Agency explained that it had tentatively decided to grant the HSUS petition but determined that it would be useful to solicit public input on the issues raised in the petition before making a final decision. FSIS stated that the Agency believed that prohibiting slaughter of all non-ambulatory disabled veal calves may remove potential uncertainty in determining the disposition of calves that have been set aside and would be consistent with the requirements for the other classes of non-ambulatory disabled cattle. FSIS also stated that prohibiting the slaughter of non-ambulatory disabled veal calves would better ensure effective implementation of ante-mortem inspection pursuant to 21 U.S.C. 603(a) and of humane handling requirements pursuant to 21 U.S.C. 603(b) of the Federal Meat Inspection Act. FSIS received approximately 75,000 comment letters on the petition. Most of the comments were form letters from a write-in campaign HSUS had organized. A summary of comments and the Agency's responses is below.

After carefully considering the issues raised in the petition and comments submitted in response to the Federal Register document (76 FR 6572), FSIS granted the HSUS petition

on March 13, 2013, and announced that the Agency would begin rulemaking when resources allowed.

#### Recent Investigation

On January 23, 2014, FSIS initiated an investigation into allegations of inhumane slaughter and handling of veal calves, covertly captured on video by HSUS, at another official veal slaughter establishment. Among other things, the video footage documents incidents in which veal slaughter establishment employees use physical force to attempt to get non-ambulatory disabled veal calves to rise.

After reviewing the video footage and other evidence, FSIS found that the establishment did have a comprehensive systematic approach to its humane handling program, but that the approach was not consistently applied. As a result, FSIS withdrew its inspectors from the slaughter operations at the establishment, thereby halting slaughter operations, until the establishment provided the Agency with corrective actions and further planned preventive measures that would ensure that livestock at the establishment would be slaughtered humanely. The establishment provided the Agency with corrective and preventive actions on January 24, 2014. After a thorough review and evaluation of these materials, FSIS notified the establishment that its suspension would be held in abeyance on February 3, 2014. FSIS

continues to verify that the establishment's corrective and further-planned actions are implemented and effective.

#### Comments and Responses

Approximately 70,000 comment letters that expressed support for the HSUS petition were submitted as part of the HSUS write-in campaign. FSIS also received over 4,000 comment letters in support of the petition from other write-in campaigns, animal welfare organizations, private citizens, and two veterinary associations. FSIS received approximately 200 comments from trade associations representing meat processors, cattle producers, dairy producers, and farm bureaus, as well as individual dairy farmers, veal processors, cattle producers, and private citizens that opposed granting the petition.

Comments: Most of the commenters that supported the petition stated that the regulation that allows veal calves to be set apart and held for treatment violates the HMSA because it encourages conduct such as dragging, kicking, excessive shocking, and other means of forced movement that are clearly prohibited. The commenters asserted that FSIS cannot reasonably justify imposing a higher protective standard for mature cattle than it does for calves.

The comments in support of the petition also asserted that granting the petition would eliminate incentives for veal calf producers to send extremely weak calves to slaughter, thereby



improving on-farm conditions and conditions during transportation for these animals. According to the comments, veal calves are often fed all-liquid diets that are intended to be deficient in iron, making these animals more susceptible to gastrointestinal disorders and diseases. The comments also stated that veal calves are subjected to cruel confinement practices that contribute to their weakened condition. The comments stated that veal calf producers have the means to prevent conditions that can predispose calves to collapse at slaughter, and, therefore, the regulations should encourage improvements in on-farm and transportation practices.

Many commenters in support of granting the petition asserted that rescinding the regulation that allows veal calves to be set apart and held for treatment would improve inspection efficiency and ensure the appropriate disposition of non-ambulatory disabled veal calves on ante-mortem inspection. The commenters argued that the rescission would eliminate the uncertainty inherent in determining whether these animals are non-ambulatory disabled because they are tired or cold, or because they are injured or sick.

Some commenters asserted that the Agency had not articulated the nature of the "uncertainty" in determining the disposition of non-ambulatory disabled veal calves that it seeks to avoid by granting the HSUS petition. The commenters stated

that such "uncertainty" could not be attributed to bovine spongiform encephalopathy (BSE) concerns because veal calves are too young to present a BSE risk. The commenters asserted that conditions that are commonly observed in veal calves can readily be treated before these animals are presented for slaughter.

Response: Although FSIS has determined that cattle younger than 30 months do not present a serious risk of BSE, veal calves are vulnerable to other systemic and metabolic diseases and injury because of inadequate immunoglobulin transfer, nutritional inadequacies of an all-liquid iron-deficient diet, activity restriction, and stress. For example, veal calves are acutely susceptible to enteritis, which is the inflammation of the small intestine caused by infection that may lead to diarrhea, abdominal pain, fever, and dehydration. If adopted, this proposed rule will eliminate the time that FSIS IPP spend determining whether veal calves are non-ambulatory disabled because they are tired or cold or because they have diseases like enteritis. This proposed rule will also eliminate the time that FSIS IPP spend re-inspecting veal calves if they are again offered for slaughter. Therefore, this proposed rule will increase the time FSIS IPP can focus on other inspection activities.

Comments: Several comments, most from trade associations representing meat processors, stated that instead of encouraging

inhumane handling, allowing non-ambulatory disabled veal calves to be set apart for treatment gives these animals an opportunity to naturally show that they can gain the strength to rise and become ambulatory through additional nourishment and care.

Therefore, the commenters asserted, allowing veal calves time to rest and gain warmth is, in fact, inherently humane. According to the commenters, granting the petition would do little to improve humane handling of veal calves because the slaughter establishments that do exercise their option to allow tired or cold non-ambulatory disabled veal calves to rest do handle these calves humanely.

Response: The 2009 inhumane handling incident referred to in the HSUS petition and the 2014 inhumane handling incident described above demonstrate that these animals are not always given an opportunity to naturally show that they can gain the strength to rise and become ambulatory through additional nourishment and care. FSIS also reviewed non-compliance records (NRs) from 2012 to 2014 and found three instances where FSIS inspectors observed ambulatory veal calves walk over non-ambulatory disabled veal calves and one instance where non-ambulatory disabled veal calves were physically lifted and dropped into holding pens. While these instances of non-compliance were corrected through corrected actions, FSIS has found that allowing reinspection of NAD veal may have created an

incentive for some establishments to inhumanely attempt to force these animals to rise. In addition, allowing reinspection may have encouraged establishments or livestock producers to hold ill or injured veal calves from slaughter longer in an attempt to allow them to sufficiently recover to pass the reinspection before collapsing. FSIS is concerned that these veal calves may not have adequate access to water. From 2012 to 2014, FSIS documented over 30 NRs for failure to provide water in accordance with § 313.2(e). Furthermore, veal calves may not be able to drink the water that establishments provide because they are used to drinking from a bottle. Therefore, FSIS has determined that a change in the regulation is needed to ensure more effective and efficient implementation of inspection procedures and compliance with humane handling requirements at official veal slaughter establishments.

Comments: Some commenters suggested that FSIS should only amend the provision in 9 CFR 309.13(b) to prohibit the slaughter of non-ambulatory disabled "bob veal," which are calves generally less than one week old. The commenters argued that bob veal should be treated differently than formula-fed and non-formula-fed calves. The comment recommended limiting the prohibition to bob veal because they are younger and weaker and thus more likely to become non-ambulatory disabled at slaughter than the older calves.

A trade association representing farmers and processors of formula-fed veal noted that the inhumane handling incident referred to in the HSUS petition took place at a bob veal calf slaughter establishment. The commenter noted that bob veal calves are a small segment of young dairy calves that have not received the individualized care that is typical at a formula-fed veal farm. The commenter stated that farmers of formula-fed veal select the highest quality and healthiest bull calves available in sale barns or directly from dairy farmers. The commenter explained that the formula-fed veal calves raised in the U.S. receive individualized and specialized care and husbandry on veal farms until they are 20-22 weeks or approximately 450-500 pounds. The commenter noted that this treatment is in contrast to how bob veal calves, which are typically younger, weaker, and lighter calves, are treated. The commenter stated that a formula-fed veal calf that has been raised to market-weight carries a significant loss of investment compared to a bob veal calf that has not received the same individual care. According to the commenter, based on market value in 2013, a typical farmer of formula-fed veal is likely to lose \$800 for each otherwise healthy non-ambulatory disabled veal calf that cannot proceed to slaughter compared with the \$10-25 loss for each bob veal calf.

Response: While the 2009 inhumane handling incident referred to in the HSUS petition took place at a bob veal calf slaughter establishment, the 2014 inhumane handling incident described above took place at a formula-fed veal calf slaughter establishment. Based on the evidence found in these investigations, FSIS believes that a change in the regulation is needed to ensure that there is better compliance with humane handling requirements at all official veal slaughter establishments and more effective and efficient implementation of inspection procedures.

Also, as discussed below, the Agency's analysis of the estimated costs of this rule to formula-fed and non-formula-fed veal slaughter establishments would be about \$0 to \$8,225.00 annually, which is insignificant compared to their annual market value of about \$283 million to \$366 million.

Proposed Amendments to 9 CFR 309.13(b) and 309.3(e)

The above-mentioned incidents of inhumane handling at official veal calf slaughter establishments in 2009 and 2014 demonstrate that the provision in 9 CFR 309.13(b) may create an incentive for establishments to inhumanely force non-ambulatory disabled veal calves to rise and may provide an incentive for livestock producers and establishments to send weakened veal calves to slaughter in the hope that the veal calves are able to sufficiently recover to pass ante-mortem inspection. Sending

such weakened veal calves to slaughter increases the chances that they will go down and then be subjected to conditions that are inhumane. This proposed rule will remove the incentive to send such weakened veal calves to slaughter and decrease the chances of inhumane conditions. In addition, prohibiting the slaughter of all non-ambulatory disabled veal calves will be consistent with the requirements for the other classes of non-ambulatory disabled cattle.

Therefore, after evaluating the comments, NRs, and information from the 2009 and 2014 incidents discussed above, FSIS is proposing to remove the second sentence in 9 CFR 309.13(b) that permits veal calves that are unable to rise from a recumbent position and walk because they are tired or cold to be set apart and held for treatment.

In addition, FSIS is proposing to amend 9 CFR 309.3(e) to clarify in the regulations that non-ambulatory disabled cattle that are offered for slaughter must be condemned and promptly disposed of properly. FSIS is proposing to make this change in response to questions from establishments on when non-ambulatory disabled cattle must be condemned and disposed of properly. In the preamble to the 2009 final rule, "Requirements for the Disposition of Cattle that Become Non-Ambulatory Disabled Following Ante-Mortem Inspection" (74 FR 11463; March 18, 2009), FSIS explained that the HMSA and regulations require that non-

ambulatory disabled cattle be humanely handled and that humane handling requires that such cattle be promptly euthanized (74 FR 11464). "Promptly" means within a reasonable time in view of all of the facts and circumstances. Under this proposed rule, non-ambulatory disabled cattle (including veal calves) that are offered for slaughter will have to be condemned and promptly euthanized.

Also under this proposed rule, the carcasses, parts thereof, meat, or meat food products of non-ambulatory disabled veal calves will be considered unfit for human food and thus adulterated. The reinspection of non-ambulatory disabled veal calves by IPP will be discontinued, increasing the time IPP can focus on other inspection activities.

FSIS is proposing this rule under 21 U.S.C. 621, which gives FSIS the authority to adopt regulations for the efficient administration of the FMIA. The amendment in this proposal is intended to facilitate more effective implementation of ante-mortem inspection pursuant to 21 U.S.C. 603(a) and of the humane handling requirements established pursuant to 21 U.S.C. 603(b). Executive Orders 12866 and 13563, and the Regulatory Flexibility Act

Executive Orders 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that



maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This proposed rule has been designated a "significant" regulatory action under section 3(f) of Executive Order (E.O.) 12866. Accordingly, the rule has been reviewed by the Office of Management and Budget under E.O. 12866.

#### Baseline

In calendar year (CY) 2013, federally-inspected veal calf establishments slaughtered a total of 725,020 veal calves (Table 1). Market value estimates for slaughtered veal calves based on data reported by the U.S. Department of Agriculture, Agricultural Marketing Service (AMS), were between \$283 million and \$366 million.<sup>1</sup>

---

<sup>1</sup>Bob Veal Market Value: \$8.40-\$90.00 per head, Data derived from USDA/AMS Lancaster County Weekly Cattle Summary (LS\_LN145) Reports - 03/03/2013, 06/21/2013, 09/27/2013, 12/20/2013; Formula and Non Formula-fed veal Market Value: \$872.35-\$1,028.09 per head, Data derived from USDA/AMS Weekly Veal Market Summary Reports - calendar year 2013

Table 1: Total veal calves slaughtered and market value, CY  
2013

Veal Calf Type	Sum of Head Count (1,000)	Min Market Value (\$1,000,000)	Max Market Value (\$1,000,000)
Bob Veal	405.6	\$ 3.4	\$ 36.5
Formula-fed Veal	310.8	\$ 271.3	\$ 319.7
Non Formula-fed Veal	8.6	\$ 7.9	\$ 9.3
Grand Total*	725.0	\$ 282.6	\$ 365.5
Notes: Head Slaughtered source – FSIS, Public Health Information System (PHIS)			
*Sum may not add up due to rounding			

The U.S. veal industry is made up of establishments in the small and very small Hazard Analysis and Critical Control Point (HACCP)-size categories.<sup>2</sup> Table 2 outlines the number of establishments and the total head slaughtered.

---

<sup>2</sup> HACCP size: Very Small Establishment = Less than 10 employees or less than \$2.5 million in annual sales; Small Establishment = 10-499 employees; Large Establishment = 500 or more employees.

Table 2: The Number of Veal Calves Slaughtered in Official Establishments, by HACCP Processing Size, in CY 2013

HACCP Processing Size	Total # of Ests	Bob Veal SL (1,000)	Formula-fed Veal SL (1,000)	Non Formula-fed Veal SL (1,000)	Total SL (1,000)
Small	46	275.3	310.7	1.4	587.4
Very Small	146	130.3	.125	7.2	137.6
Total*	192	405.6	310.8	8.6	725.0
Source: FSIS, PHIS					
*Sum may not add up due to rounding					

#### Expected Cost of the Proposed Rule

The expected costs of the proposed rule for the veal establishments are a result of the lost market value of the non-ambulatory disabled veal calves that the affected establishments will no longer be able to slaughter for human food. The addition of the word “promptly” to 9 CFR 309.3(e) would not have any expected costs.

To estimate the total first year cost to the veal industry, FSIS used CY 2013 PHIS data to obtain the expected minimum and maximum percent of non-ambulatory disabled calves out of the current veal calves slaughtered. Since FSIS did not have an exact count of the number of veal calves that were non-

ambulatory and were re-inspected (after the calves rested and were able to move) and then sent for slaughter, the agency assumed that the number of deleted records<sup>3</sup> in PHIS was a close approximation that represented the scenario. FSIS is seeking comments on this assumption. FSIS applied those multipliers to the number of calves slaughtered in CY 2013 (see Table 3, below). The lower and upper bounds respectively, based on table 3, were 0.069% and 0.42% for non-ambulatory disabled affected bob veal calves, and 0.000% and 0.002% for the combined group of non-ambulatory disabled formula-fed and non-formula-fed veal calves.

Table 3: The Distribution of FSIS Condemned Veal Calves By Category, for CY2013

Category	Min Percent Non-Ambulatory Disabled Veal Affected	Max Percent Non-Ambulatory Disabled Veal Affected
Bob Veal	0.069%	0.420%
Formula- and Non Formula-fed	0.000%	0.002%

<sup>3</sup> The records are not permanently deleted, but are marked and saved in another field of PHIS.

Veal		
------	--	--

Source: FSIS, PHIS

Using the minimum and maximum values of non-ambulatory disabled affected veal calves, FSIS estimated the expected minimum and maximum total first year cost to the veal establishments, based on CY 2013 data.

Table 4: Expected Quantified Total Costs to the U.S. Veal Industry

	Bob Veal	Formula- & Non Formula-fed Veal
Minimum Percent Affected	0.069%	0.000%
Maximum Percent Affected	0.420%	0.002%
Min # of Veal Affected	282	0
Max # of Veal Affected	1702	8
Min Price per Head	8.4	872.35
Max Price per Head	90	1028.09
Minimum Cost	2368.8	0
Maximum Cost	153180	8224.72
Minimum U.S. Industry Cost	2368.8	
Maximum U.S. Industry Cost	161404.72	

If the proposed rule is adopted, non-ambulatory disabled veal calves will not be re-inspected during ante-mortem inspection. The veal calves that are condemned during ante-mortem inspection will be euthanized. The cost of disposing of the dead calves varies across the region. We do not have adequate data to cost out the disposal fees for dead calves since we do not know how many establishments engage in this practice. Therefore, FSIS is seeking comments and any available data on this practice.

The estimated annual cost to the veal industry would range between \$2369 and \$161405. The bob veal category would be the most affected section of the veal industry because, as shown in table 4, both the minimum and maximum numbers of bob veal calves that are non-ambulatory disabled at ante-mortem inspection exceed the numbers of formula-fed and non-formula-fed veal calves that are non-ambulatory disabled at ante-mortem inspection. According to comments to the petition and data provided by AMS, bob veal are also the weakest and the most vulnerable category of veal calves, and have the lowest market value to the industry.

#### Expected Benefits of the Proposed Rule

FSIS predicts that this rule would provide Agency personnel with savings in terms of inspection time. According to PHIS data, it takes an inspector around 15 minutes to re-inspect a

calf. Since FSIS will not have to re-inspect the veal calves that are non-ambulatory disabled during ante-mortem inspection to determine their disposition, the Agency will save anywhere from 70.5 hours (minimum) to 428 hours (maximum) in total. This time will allow the inspector the ability to engage in other inspection activities instead.

Table 5: Benefits in terms of time saving

Time to do ante-mortem inspection	15 min	
	Bob Veal	F & NF Fed
Min # of Veal Affected	282	0
Max # of Veal Affected	1702	8
Min time saved	70.5	0
Max time saved	425.5	2
Total Minimum Time Saved	70.5hr	
Total Maximum Time Saved	427.5hr	

The proposed rule will ensure the humane disposition of the non-ambulatory disabled veal calves. It will also increase the efficiency and effective implementation of inspection and humane handling requirements at official establishments. This rule would incentivize growers and transporters of cattle to improve animal welfare, both, before and during transport. A recent study conducted by researchers from the University Of Manitoba Department Of Animal Science's Agriculture and Agri-Food Canada, Lethbridge Research Centre, has shown that transport and transport conditions, such as temperature, length of the trip, and space allowance (density of animals to size), are associated

with cattle being dead, lame, and non-ambulatory at the unload. Of all the classes of cattle, calves, and cull cattle were the “more likely to be dead and non-ambulatory during the journey”, the study points. The authors indicate that animal condition upon loading plays an important risk factor in the outcome of the journey. The study concludes that, even though dead, lame, and non-ambulatory animals had very low incidences, the fact of being one or another indicated extremely poor welfare conditions of cattle. Since veal calves are a vulnerable population, those implied in transporting cattle should be encouraged to do so in a more humane and careful way. In addition, growers should be incentivized to grow healthier and stronger animals that can handle the stress and other issues associated with transportation.<sup>4</sup>

#### Regulatory Flexibility Act Assessment

FSIS has made a preliminary determination that this proposed rule would not have a significant economic impact on a substantial number of small entities in the United States, as defined by the Regulatory Flexibility Act (5 U.S.C. 601 et seq.). FSIS is seeking comments on this determination.

---

<sup>4</sup> González, L.A., Schwartzkopf-Genswein, K.S., Bryan, M., Silasi, R., and Brown F. (2015). “Relationship between transport conditions and welfare outcomes during commercial long haul transport of cattle in North America”. American Society of Animal Science, 90(10):3640-51 doi: 10.2527/jas2011-4796.



The Agency estimates that this rule would possibly affect 192 small and very small HACCP size veal slaughter establishments(as seen in table 2). Even though so many small and very small establishments are affected by this rule the volume of veal that will not be eligible for slaughter is very low. Further, the estimated total annual cost per establishment to the industry is between \$12 (total minimum cost/number of establishments=2369/192) and \$841 (total maximum cost/number of establishments=\$161405/192).

#### Paperwork Reduction Act

There are no paperwork or recordkeeping requirements associated with this proposed rule under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520).

#### E-Government Act

FSIS and USDA are committed to achieving the purposes of the E-Government Act (44 U.S.C. 3601, et seq.) by, among other things, promoting the use of the Internet and other information technologies and providing increased opportunities for citizen access to Government information and services, and for other purposes.

#### Executive Order 12988

This proposed rule has been reviewed under Executive Order 12988, Civil Justice Reform. Under this proposed rule: (1) All State and local laws and regulations that are inconsistent with

this rule will be preempted, (2) no retroactive effect will be given to this rule, and (3) no administrative proceedings will be required before parties may file suit in court challenging this rule.

#### Executive Order 13175

This proposed rule has been reviewed in accordance with the requirements of Executive Order 13175, Consultation and Coordination with Indian Tribal Governments. The review reveals that this regulation will not have substantial and direct effects on Tribal governments and will not have significant Tribal implications.

#### USDA Non-discrimination Statement

No agency, officer, or employee of the USDA shall, on the grounds of race, color, national origin, religion, sex, gender identity, sexual orientation, disability, age, marital status, family/parental status, income derived from a public assistance program, or political beliefs, exclude from participation in, deny the benefits of, or subject to discrimination any person in the United States under any program or activity conducted by the USDA.

#### How to File a Complaint of Discrimination

To file a complaint of discrimination, complete the USDA Program Discrimination Complaint Form, which may be accessed online at

[http://www.ocio.usda.gov/sites/default/files/docs/2012/Complain\\_combined\\_6\\_8\\_12.pdf](http://www.ocio.usda.gov/sites/default/files/docs/2012/Complain_combined_6_8_12.pdf), or write a letter signed by you or your authorized representative.

Send your completed complaint form or letter to USDA by mail, fax, or email:

Mail

U.S. Department of Agriculture  
Director, Office of Adjudication  
1400 Independence Avenue, SW  
Washington, DC 20250-9410

Fax

(202) 690-7442

E-mail

program.intake@usda.gov

Persons with disabilities who require alternative means for communication (Braille, large print, audiotape, etc.), should contact USDA's TARGET Center at (202) 720-2600 (voice and TDD).

Additional Public Notification

Public awareness of all segments of rulemaking and policy development is important. Consequently, FSIS will announce this Federal Register publication on-line through the FSIS Web page located at: <http://www.fsis.usda.gov/federal-register>.

FSIS also will make copies of this publication available through the FSIS Constituent Update, which is used to provide

information regarding FSIS policies, procedures, regulations, Federal Register notices, FSIS public meetings, and other types of information that could affect or would be of interest to our constituents and stakeholders. The Update is available on the FSIS Web page. Through the Web page, FSIS is able to provide information to a much broader, more diverse audience. In addition, FSIS offers an email subscription service which provides automatic and customized access to selected food safety news and information. This service is available at: <http://www.fsis.usda.gov/subscribe>. Options range from recalls to export information, regulations, directives, and notices. Customers can add or delete subscriptions themselves, and have the option to password protect their accounts.

List of Subjects in 9 CFR Part 309

Animal diseases, Meat inspection, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, FSIS proposes to amend 9 CFR part 309 as follows:

PART 309 - ANTE-MORTEM INSPECTION

1. The authority citation for part 309 continues to read as follows:

Authority: 21 U.S.C. 601-695; 7 CFR 2.18, 2.53.

2. Section 309.3(e) is revised to read as follows:

§ 309.3 Dead, dying, disabled, or diseased and similar livestock.

\* \* \* \* \*

(e) Establishment personnel must notify FSIS inspection personnel when cattle become non-ambulatory disabled after passing ante-mortem inspection. Non-ambulatory disabled cattle that are offered for slaughter must be condemned and promptly disposed of in accordance with § 309.13.

**§ 309.13 [AMENDED]**

3. Section 309.13(b) is amended by removing the second sentence.

Done in Washington, DC, on: May 8, 2015.

Alfred V. Almanza,  
Acting Administrator.

[FR Doc. 2015-11559 Filed: 5/12/2015 08:45 am; Publication Date: 5/13/2015]